

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1505

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AN ACT to amend the Indiana Code concerning utilities.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 8-1.5-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) This chapter does not apply to utilities governed by:

(1) IC 8-1-13; or

(2) IC 8-1-2 except for a municipally owned **water, wastewater, or combined water and wastewater** utility.

(b) The law relating to acquisition of electric utility property and to electricity suppliers' service area assignments shall be governed by IC 8-1-2.3 and IC 8-1-2-95.1, and nothing in this chapter modifies or abridges those provisions.

SECTION 2. IC 8-1.5-2-4, AS AMENDED BY P.L.103-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. Whenever the municipal legislative body determines to sell or otherwise dispose of nonsurplus municipally owned utility property, it shall by ordinance or resolution ~~by a two-thirds (2/3) vote~~, provide for the following:

(1) The appointment, as follows, of three (3) residents of Indiana to serve as appraisers:

(A) One (1) disinterested person who is an engineer licensed under IC 25-31-1.

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(B) One (1) disinterested appraiser licensed under IC 25-34.1.

(C) One disinterested person who is either:

- (i) an engineer licensed under IC 25-31-1; or
- (ii) an appraiser licensed under IC 25-34.1.

(2) The appraisal of the property.

(3) The time that the appraisal is due.

SECTION 3. IC 8-1.5-2-5, AS AMENDED BY P.L.103-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) Each appraiser appointed as provided by section 4 of this chapter must:

(1) by education and experience, have such expert and technical knowledge and qualifications as to make a proper appraisal and valuation of the property of the type and nature involved in the sale;

(2) be a disinterested person; and

(3) not be a resident or taxpayer of the municipality.

(b) The appraisers shall:

(1) be sworn to make a just and true valuation of the property; and

(2) return their appraisal, in writing, to the municipal legislative body within the time fixed by the ordinance or resolution appointing them.

(c) If all three (3) appraisers cannot agree as to the appraised value, the appraisal, when signed by two (2) of the appraisers, constitutes a good and valid appraisal.

(d) If, after the return of the appraisal by the appraisers to the legislative body, the legislative body decides to proceed with the sale or disposition of the nonsurplus municipally owned utility property, the legislative body shall, not **earlier than the thirty (30) day period described in subsection (e) and not later than forty-five (45) ninety (90) days** after the return of the appraisal, hold a public hearing to do the following:

(1) Review and explain the appraisal.

(2) Receive public comment on the proposed sale or disposition of the nonsurplus municipally owned utility property.

**(3) Not less than thirty (30) days or more than sixty (60) days after the date of a hearing under this section, the legislative body may adopt an ordinance providing for the sale or disposition of the nonsurplus municipally owned utility property, subject to subsections (f) and (g). The legislative body is not required to adopt an ordinance under this subdivision providing for the sale or disposition of the nonsurplus municipally owned utility property if, after the hearing, the legislative body determines it is not in the interest of the**



municipality to proceed with the sale or disposition. Notice of ~~the a~~ hearing **under this section** shall be published in the manner prescribed by IC 5-3-1.

(e) The hearing on the ~~ordinance providing for proposed~~ sale or disposition **of the nonsurplus municipally owned utility property** may not be held ~~for less than~~ thirty (30) days after notice ~~of the~~ hearing is given as required by subsection (d).

**(f) Subject to subsection (j), an ordinance adopted under subsection (d) does not take effect until the later of the following:**

**(1) The expiration of the thirty (30) day period described in subsection (g) if the required number of registered voters set forth in subsection (h) do not sign and present a petition to the legislative body opposing the sale or disposition within the thirty (30) day period described in subsection (g).**

**(2) The effective date specified by the legislative body in the ordinance.**

~~(f)~~ **(g) If:**

(1) the legislative body adopts an ordinance under subsection ~~(d)(3); (d);~~ and

(2) ~~within the not later than~~ thirty (30) day period described in subsection ~~(e); days after the date the ordinance is adopted at~~ least the number of the registered voters of the municipality ~~required under IC 3-8-6-3 for a petition to place a candidate on the ballot set forth in subsection (h)~~ sign and present a petition to the legislative body opposing the sale or disposition;

the legislative body shall submit the question as to whether the sale or disposition shall be made to the voters of the municipality at a special or general election. In submitting the public question to the voters, the legislative body shall certify **within the time set forth in IC 3-10-9-3, if applicable,** the question to the county election board of the county containing the greatest percentage of population of the municipality. ~~under IC 3-10-9-3.~~ The county election board shall adopt a resolution setting forth the text of the public question and shall submit the question as to whether the sale or disposition shall be made to the voters of the municipality at a special or general election on a date specified by the municipal legislative body. Pending the results of an election under this subsection, the municipality may not take further action to sell or dispose of the property as provided in the ordinance.

**(h) The number of signatures required on a petition opposing the sale or disposition under subsection (g) is as follows:**

**(1) In a municipality with not more than one thousand (1,000) registered voters, thirty percent (30%) of the registered**



voters.

(2) In a municipality with at least one thousand one (1,001) registered voters and not more than five thousand (5,000) registered voters, fifteen percent (15%) of the registered voters.

(3) In a municipality with at least five thousand one (5,001) registered voters and not more than twenty-five thousand (25,000) registered voters, ten percent (10%) of the registered voters.

(4) In a municipality with at least twenty-five thousand one (25,001) registered voters, five percent (5%) of the registered voters.

~~(g)~~ (i) If a majority of the voters voting on the question vote for the sale or disposition, the legislative body shall proceed to sell **or dispose** of the property as provided in the ordinance.

~~(h)~~ (j) If a majority of the voters voting on the question vote against the sale or disposition, **the ordinance adopted under subsection (d) does not take effect and** the sale **or disposition** may not be made.

~~(i)~~ (k) If:

(1) the legislative body adopts an ordinance under subsection ~~(d)(3)~~; **(d)**; and

(2) after the expiration of **the thirty (30) days as provided day period described** in subsection ~~(e)~~; **(g)**, a petition is not filed; the municipal legislative body may proceed to sell the property as provided in the ordinance.

**(l) Notwithstanding the procedures set forth in this section, if a municipality:**

**(1) before July 1, 2015, adopts an ordinance under this section for the sale or disposition of nonsurplus municipally owned utility property in accordance with the procedures set forth in this section before its amendment on July 1, 2015; and**

**(2) the ordinance adopted takes effect before July 1, 2015, in accordance with the procedures set forth in this section before its amendment on July 1, 2015;**

**the ordinance is not subject to challenge under subsection (g) after June 30, 2015, regardless of whether the thirty (30) day period described in subsection (g) expires after June 30, 2015. An ordinance described in this subsection is effective for all purposes and is legalized and validated.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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